



(S)

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (C) No. 4199 of 2007

PETITIONER

Shiv Narayan Gupta S/o. Shri
Vindeshwari Sav Gupta Aged
about 55 years Occupation – Tea
maker (stall) R/o. Vill.-Balrampur,
P.S- Balrampur District Serguja
(C.G.)

Versus

RESPONDENTS

- 1) State of Chhattisgarh Through :
Collector, Ambikapur, Dist –
Serguja (C.G.)
- 2) S.D.M., Ambikapur, Dist –
Serguja (C.G.)
- 3) Project Officer, District Urban
Development Authority,
Ambikapur
- 4) P. Tandon Tahsildar, Balrampur,
Ambikapur Serguja (C.G.)
- 5) Shyam Ratan Jaiswal C.M.O.,
Nagar Panchayat, Balrampur,
Ambikapur Dist – Serguja (C.G.)

(Writ Petition under Article 226 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present: Ms. Dipali Pandey, counsel for the petitioner.
Shri Yashwant Singh Thakur, Govt. Advocate for the State.

ORDER

(Passed on 20th July, 2007)

By this petition, the petitioner seeks a direction to conduct an enquiry against the respondents No. 1 and 4 and pay compensation to him.



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2) The facts, in nutshell, are that the petitioner was in possession of a piece of land bearing Khasra No.441, 709/1 admeasuring 0.004 acres of land at Balrampur, Ambikapur, Dist. Serguja and erected a house thereon. The petitioner claims to be the owner of the land on the basis of revenue records in the year 1997-1998. The construction on the said land was demolished and after demolishing the construction, the petitioner has filed this petition on the ground that before demolishing the said construction, no notice was given to him. After demolition of the construction, the petitioner seeks an enquiry against the concerned officers and compensation for the said action.

3) Having heard learned counsel appearing for the petitioner and on perusal of the documents, it is found that the land in dispute was under encroachment and the petitioner has not taken any step for removal of the encroachment from the land in dispute. The petitioner was imposed a sum of Rs. 100/- as fine for encroachment on 13.05.1988. Thus, the nature of possession of the petitioner was in dispute.

4) The petition involves the disputed questions of facts which can be adjudicated under the Civil Court jurisdiction alone. This Court cannot go into the determination of facts with regard to the right of the petitioner on the disputed land and house. Thus, this case is not maintainable in this Court for determination of right of the petitioner on the disputed land.

5) With regard to the enquiry against the concerned officers, it is at pre-matured stage. Unless it is found that the concerned authorities have taken illegal action against the petitioner, there cannot be roving enquiry under extra ordinary jurisdiction of this Court.



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6) So far as prayer for compensation is concerned, that can also be considered only after the right of the petitioner on the disputed land has been established.

7) In view of the foregoing, there is no merit in the case. The petition deserves to be and is accordingly dismissed summarily. However, the petitioner is at liberty to move the civil court jurisdiction for determination of his title/right over the land and consideration thereof. This order shall not come in way of judicial determination of the disputes.

Sd/-
Satish K. Agnihotri
Judge

raju